



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Request For Proposals and Authorize Advertisement for Contract Services For the Development and Implementation of a Climate Action Plan

MEETING DATE: October 19, 2011

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Approve Request for Proposals and authorize advertisement for contract services for the development and implementation of a Climate Action Plan.

BACKGROUND INFORMATION: The City is seeking proposals from qualified organizations, academic institutions and firms to assist in the development and implementation of a Climate Action Plan.

Lodi's recently adopted General Plan addresses issues related to global climate change (GCC) and energy conservation as it pertains to greenhouse gas (GHG) emissions and the potential adverse impact those issues have on our local community and region.

The potential adverse impact on our water supply, to public health, to our local agriculture and our overall quality of life is sufficient cause for Lodi to examine how it contributes to GCC and what can be done to mitigate that.

While State regulations provide direction for regional and local goals and policy measures, a local Climate Action Plan is needed to provide specific details on how to achieve those goals. The City of Lodi received grant funding for a number of projects, including the Climate Action Plan, through a joint application with the Smart Valley Places Compact to the Sustainable Community Planning Grant Program.

The Smart Valley Places Compact is made up of 14 Valley cities from throughout the eight-county region, in partnership with four regional nonprofit organizations, California State University, Fresno and the San Joaquin Valley Regional Policy Council. Building on the San Joaquin Valley Regional Blueprint and its smart growth principles, Smart Valley Places is our region's roadmap to creating more transportation choices, equitable-affordable housing, economic competitiveness, and healthier, safe and walkable neighborhoods, ultimately shaping future growth trends that will impact not only the health and prosperity of the region, but the entire state of California.

APPROVED:

A handwritten signature in black ink, appearing to read "Konradt Bartlam".

Konradt Bartlam, City Manager

FISCAL IMPACT:

Staff time spent on this project goes toward the required in-kind matching funds.

FUNDING AVAILABLE:

The project estimate of \$120,000 is funded through the Sustainable Communities Planning Grant. A request for appropriation of funds will be made at award of contract.


Konradt Bartlam
Community Development Director

KB/jw

Attachment

REQUEST FOR PROPOSALS

CITY OF LODI, CALIFORNIA

CLIMATE ACTION PLAN



October 19, 2011

Schedule:

Proposal Due Date:	November 17, 2011
Award of Agreement:	December 21, 2011
Projected Agreement Start Date:	January 1, 2012
Project Completion Deadline:	April 1, 2013

Contact:

Joseph Wood, Neighborhood Services Manager
City of Lodi Community Development Department
221 W. Pine Street
Lodi, CA 95240
Phone: 209-333-6800 x2467
E: jwood@lodi.gov

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I. Introduction

The City of Lodi (“City”) is requesting proposals from qualified organizations, academic institutions, and firms to assist the City in the development and implementation of a Climate Action Plan.

The City of Lodi is a general law city in San Joaquin County, located within the Central Valley Region. It has received a Sustainable Communities Regional Planning Grant from the U.S. Department of Housing and Urban Development for a set of related projects, including a Climate Action Plan (CAP).

The City desires outside professional services to help the City create and implement the CAP. We encourage responding firms/organizations to provide these services in conjunction with a class or group of upper-level undergraduate or graduate students in a related field of study. Through this, the City hopes to facilitate a hands-on student experience as well as receive a fresh approach to Lodi’s Climate Action Plan.

The CAP will involve community meetings and other forms of community input as appropriate, reviewing the results of a greenhouse gas (GHG) emissions inventory and the resulting City Council reductions target, preparing preliminary policy recommendations, and ultimately a detailed implementation strategy the City can use to seek internal and external funding to complete.

The words “organization”, “consultant”, and “proposer” are used interchangeably throughout this Request for Proposals (RFP) to refer to the organization, firm, institution, team, or partnership that would act as the City’s consultant throughout the CAP project.

II. Scope of Services

The budget for the following scope of services is \$120,000.

Task 1 – Develop Baseline GHG Inventory

The baseline GHG inventory provides important information about the community’s existing emissions sources and can help planners identify which actions will be most effective at reducing emissions. Having an accurate baseline is also critical for setting realistic emissions reductions targets. For this reason, it is critical that the baseline is accurate. During this task, a baseline inventory will be developed for (1) emissions associated with local government operations, and (2) emissions associated with all activities taking place within the community.

Develop Municipal Operations GHG Inventory

Emissions from municipal operations included carbon dioxide (CO₂) and other GHG emissions attributed to fuel use in City-owned vehicle fleets (including police cars and maintenance vehicles), electricity use, and solid waste management. Emissions associated with Lodi’s streetlights, traffic signals, and water distribution systems would appear on the municipal GHG

inventory. The municipal inventory will be developed in accordance to the most recent version of the Local Government Protocols.

Develop Community-wide GHG Inventory

All GHG emissions occurring within City boundaries will be included in the communitywide inventory. The community-wide inventory will be developed in accordance with industry accepted protocols and best-practices.

Task 2 – Conduct Public Outreach

A public meeting (goal of 50 - 100 attendees) shall be convened as soon as possible after the GHG inventories have been completed. The purpose of this meeting will be to share the results of the inventories and gather comments and ideas for the CAP from the public. This meeting will be noticed by direct mail to all households in the City, as well as through ads in the local paper and contacts through local service agencies and business organizations. Comments from people who can't attend the meeting will be solicited and encouraged; an opt-in e-mail list of interested parties will be created; pages on the City website will be posted with public information about the project.

Additional outreach efforts will include but not be limited to: direct mail, newspaper ads, website postings, postings on the local public access channel, and active use of local social service agencies and service clubs.

At least one additional dedicated public meeting will be held. Other creative methods of civic engagement are welcome.

Task 3 - Develop Climate Action Plan/GHG Reduction Goals and Strategies

The consultant will develop the CAP in close cooperation with staff, check-ins with the City Council, and at least two public meetings (described in Task 2 above). Among other influences, the CAP should take into account community input, best practices from other jurisdictions, and emerging successful strategies in this field.

The CAP will include detailed accounting of policies and programs and their associated GHG emission reductions, and how the aggregation of these measures will achieve the City's stated GHG reduction target. Estimates of GHG reductions will be included for each measure.

The CAP will include mandatory targets for GHG reductions in City operations and voluntary targets for community GHG reductions. The CAP will include a detailed implementation strategy including identification of legislative and budgetary actions required, departmental and coordinating staff responsibilities, and tracking and reporting of progress as the plan is implemented.

There will be a draft version of the CAP, which will be revised following input from City staff, the community, the San Joaquin Valley Air Pollution Control District, and/or the City Council, followed by a final CAP which will be presented to and scheduled for adoption by the City Council no later than April 2013 (earlier is better).

There will be regular project meetings with City staff, either in person or via conference call.

III. Proposal Format

All proposals shall include the following information, at a minimum:

Approach: A short discussion of the intended approach to the project that demonstrates the proposer understands of the issues and tasks, and the proposer's ability to address them.

Description of Organization, Management and Team Members: A description of the consultant team, and a work plan that identifies the personnel to be assigned to each task. The organization description should clearly identify who will be the non-student project manager and the day-to-day contact person for the job. The description should be clear about the role of the students as compared to the professional staff; the City's expectation is that the students will play a meaningful role with real responsibility, within the parameters of an organization with professional staff that will be accountable for completion of this contract.

Organization Qualifications: Provide an outline of the organization's qualifications, relevant background experience, and capacity for this work. Provide a list of current and prospective major projects to which the organization is committed during the time frame of this project. Include the staff and/or student resources devoted to those projects, and their status.

Scope of Work: The proposal should explain how the proposer plans to approach and complete each work task. Proposers must demonstrate that they understand the subtleties and magnitude of each individual task. The listed deliverables should be incorporated into the proposer's approach.

Proposed Project Schedule: The proposal shall include a schedule to undertake the work program. The project is anticipated to start around January 1, 2012 and must be completed by April 1, 2013, at the latest.

Proposed Budget: Indicate the costs and hours for the total project, on a task-by-task basis, and for any subconsultants, inclusive of reimbursables. Prices quoted must be binding for a minimum of 150 days. The project budget is \$120,000. If the proposer believes that the scope of services cannot be done for \$120,000 or less, it may choose to submit a lesser scope, which must clearly identify those elements of the scope that are not included and how the proposer suggests they be accomplished given their importance to the overall project. Proposals with a lesser scope must include that information at the beginning of the submittal.

References, Related Experience and Examples of Work: Provide at least three client references, as many of whom as possible are public sector representatives, for relevant work. Specify the client, location, consultant's participating individuals and their role on the team, type of work, implementation results or status, work samples, and other relevant information as needed. Include current phone numbers and e-mail addresses for the references.

Standard Contract: Proposers should review the attached standard contract prior to preparing a submittal, and include any exceptions or questions regarding it in their proposals.

IV. Selection Process

Qualifications: the City will evaluate all proposals received by the due date. Only information that is received in response to the RFP or any subsequent interview will be evaluated. The City will judge the responses of each proposing organization in several critical areas. Selected proposers may be invited to an interview at the City's discretion.

Selection Criteria: The City will select the most qualified proposal based on the following factors. Responses to the RFP should address the following qualities and indicators.

1. Ability of the Organization to Design an Approach and Work Plan to Meet the Project Requirements.

An assessment of the overall quality of the proposal. Qualities and indicators that will receive consideration include the proposer's performance in converting the Scope of Services into a work plan; the detail and clarity of the discussion as to the proposer's approach to undertaking the CAP using students; the proposer's performance in identifying any special problems or concerns which may be associated with the project and preliminary ideas about how these obstacles should be addressed; the inclusion of any unique approaches which are designed to save time and money or increase the benefits or effectiveness of the proposed work; and the demonstrated ability to work with local governmental agencies and a full understanding of applicable laws or regulations that relate to the project.

2. Ability of the Proposer to Carry Out and Manage the Proposed Project.

An assessment of the past experience of the organization in general. Qualities and indicators that will receive consideration include the number and types of similar projects the organization, or its employees or associates, have completed; the variety of projects completed and a demonstration of the organization's ability to undertake this project; the general level of experience in the areas of supervising, observing and monitoring projects involving student work; the organization's ability to realize schedule and quality control objectives; the past ability of the organization to deliver projects on a timely basis; and the demonstrated ability to successfully complete its managed projects.

3. Capabilities of the Consultant Organization and/or Team.

An assessment of the capabilities of the organization and individuals that will be engaged in the project. Qualities and indicators that will receive consideration include the individual professionals who will be working on each task; the various professional and technical

achievements of each organization and key individuals involved; the applicable experience of the proposed assigned staff, and their specific experience gained on similar projects.

4. Current Workload of the Consultant Organization and/or Team.

An assessment of the perceived ability of each organization to devote the necessary human resources and management attention to the project. Qualities and indicators that will receive consideration include the number and size of the projects presently being performed by the organization and the assigned staff; the structure and/or curriculum of the student group or class; the status of existing projects; and the nature of the existing projects that are behind schedule or past the completion date.

5. The Proposer and/or Team's Proximity to the Project.

An assessment of the project team's availability. Qualities and indicators that will receive consideration include team's geographic proximity to Lodi; the location of the office/institutions from which the proposed project will be administered; the proposed response time and general availability of the proposer's management to be on site as needed, the effect that project management location will have on price and the ability of the project to be completed on a timely basis; and the availability of special travel or communication plans which would mitigate difficulties associated with location.

6. Willingness to Comply with the Proposed Agreement Terms.

A sample agreement is attached. Proposals will be rated based on the exceptions taken to the proposed agreement.

7. Cost of Proposal.

Cost, while not determinative if not exceeding \$120,000 for the full scope of services, will be considered in the selection process. Proposers submitting a lesser scope (as described in Section 3 above) should explain the financial reasons for that decision in this section.

V. Proposal Due Date and Delivery

Submit one (1) original and one (1) electronic copy of the proposal no later than 4:00 PM on November 17, 2011 to the address below. Copies should be submitted electronically in Microsoft Word or Adobe Acrobat file format, either with the original or via e-mail to Joseph Wood (jwood@lodi.gov) by the deadline date and time. All complete proposals received by then will be considered; postmarks not accepted. Proposals will not be accepted after the deadline. Please note that e-mail is only considered received if it is acknowledged by a return e-mail sent by the due date. Proposals should be addressed to:

Joseph Wood, Neighborhood Services Manager
City of Lodi Community Development Department
221 W. Pine Street
Lodi, CA 95240
Phone: 209-333-6800 x2467
E: jwood@lodi.gov

Proposed Selection and Project Schedule:

Proposal Due Date: November 17, 2011

Award of Agreement: December 21, 2011

Projected Agreement Start Date: January 1, 2012

Project Completion Deadline: April 1, 2013

The City reserves the right to alter this schedule as necessary, including scheduling interviews if necessary.

VI. Conditions of Request

General Conditions: The City reserves the right to cancel or reject all, or a portion or portions, of the RFP without notice. Further, the City makes no representations that any agreement will be awarded to any organization submitting a proposal. The City reserves the right to reject any and all proposals submitted in response to this request or any addenda thereto. The City also reserves the right to reject any subconsultant or individual working on a consultant team and to replace the subconsultant or individual with a mutually acceptable replacement. Any change to the proposal requirements will be made by written addendum.

Liability of Costs and Responsibility: The City shall not be liable for any costs incurred in response to this request for proposals. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Lodi. The selected lead consultant will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected lead consultant will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

Validity: The proposer agrees to be bound by its proposal for a period of one hundred and fifty (150) days commencing on the due date for proposals, during which time the City may request clarification or correction of the proposal for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the proposal, but only the portion so amended or clarified.

Standard Agreement: A sample agreement has been provided as Exhibit A for the proposer's review and comment. If a proposer wishes to take exception to any of the terms and conditions contained in the consultant agreement, these should be identified specifically; otherwise, it will be assumed that the proposer is willing to enter into the agreement as it is written. Failure to identify contractual issues of dispute can later be the basis for the City disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated. Otherwise, the City will consider that all items offered are in strict compliance with the RFP, and the successful proposer will be responsible for compliance. The City will consider such exceptions as part of the evaluation process, which may constitute grounds for rejection of the proposal. The agreement will not be executed by the City without first being signed by the proposer.

Permits and Licenses: Proposer, and all of proposer's subconsultants, at its and/or their sole expense, shall obtain and maintain during the term of any agreement, all appropriate permits,

certificates and licenses including, but not limited to, a City of Lodi Business License, which will be required in connection with the performance of services hereunder.

Oral and Written Explanations: The City will not be bound by oral explanations or instructions given at any time during the review process. Oral explanations given during the review process become binding when confirmed in writing by an authorized City official. Written responses to question(s) asked by one proposer will be provided to all proposers who received Requests for Proposals via posting online at the City's website.

Proposer's Representative: The person signing the proposal must be a legal representative of the organization authorized to bind the organization to an agreement in the event of the award.

Deliverables: One unbound copy of each final document and electronic copies of all final documents and all information are to be provided as Adobe PDFs or Microsoft Word (final specifications to be determined in consultation with City staff).

Insurance: General liability, automobile, professional liability, and workers' compensation insurance are required in the amount set forth in the attached sample agreement.

Exhibit A: Standard Agreement for Professional Services

EXHIBIT A

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1

PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2011, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and _____ (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for the development and implementation of a Climate Action Plan (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2

SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against

CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted.

CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on _____, 2011 and terminates upon the completion of the Scope of Services or on _____, 2012, whichever occurs first.

ARTICLE 3 **COMPENSATION**

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4

MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others.

CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
 221 West Pine Street
 P.O. Box 3006
 Lodi, CA 95241-1910
 Attn: Joseph Wood, Neighborhood Services Manager

To CONTRACTOR:

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR.

CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL
City Clerk

KONRADT BARTLAM, City Manager

APPROVED AS TO FORM:
D. STEPHEN SCHWABAUER, City Attorney
JANICE D. MAGDICH, Deputy City Attorney

CONTRACTOR:

By: _____

By: _____
Name:
Title: _____

Attachments:

Exhibit A – Scope of Services

Exhibit B – Fee Proposal

Exhibit C – Insurance Requirements

Doc ID:

CA:rev.01.2011